

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE

STANDING ORDER ON PROCEDURE FOR
REQUESTING DEVIATION FROM
SENTENCING GUIDELINES

ADM-1
ORDER 05-02

ORDER

In Booker v. United States, 2005 WL 50108, ___ U.S. ___ (U.S. Jan. 12, 2005), the United States Supreme Court found the Federal Sentencing Guidelines to be advisory, requiring the sentencing court to consider the Guidelines' provisions, but permitting it to tailor the sentence in light of other prescribed statutory factors as well. Specifically, the Court stated:

The [Sentencing Reform Act of 1984] ... requires judges to consider the Guidelines "sentencing range established for ... the applicable category of offense committed by the applicable category of defendant," [18 U.S.C.] § 3553(a)(4), the pertinent Sentencing Commission policy statements, the need to avoid unwarranted sentencing disparities, and the need to provide restitution to victims, §§ 3553(a)(1), (3), (5)-(7) (main ed. and Supp. 2004). And the Act nonetheless requires judges to impose sentences that reflect the seriousness of the offense, promote respect for the law, provide just punishment, afford adequate deterrence, protect the public, and effectively provide the defendant with needed educational or vocational training and medical care. § 3553(a)(2) (main ed. and Supp. 2004).

Until further order of this court, in all criminal cases in this district in which either the government or the defendant seeks the imposition of a sentence that varies from the sentencing range established by proper application of the Guidelines, the party requesting the variance must set forth with specificity the factors and reasons justifying the variance request in a written sentencing memorandum filed no later than four (4) days prior to the sentencing hearing, with a copy provided to counsel of record and the United States Probation Office.

SO ORDERED.

Date: February 1, 2005

/s/ Steven J. McAuliffe
Steven J. McAuliffe
Chief Judge